

Laboratory Certification Standards Review Council Meeting Minutes From 2/10/2004

Attendance

Council Members: Paul Junio (Chair), George Bowman (Vice Chair), Marcia Kuehl (Secretary), Kurt Knuth, Katie Edgington, Randy Herwig, and Jim Kinscher

DNR Staff: Greg Pils, David Webb, Rick Mealy, and JoAnne Farnsworth

Others in Attendance: Paul Harris and R.T. Krueger

Summary and Action Items

At this meeting the Certification Standards Review Council:

- Amended and then approved the minutes from their November 18, 2003 meeting
- Voted to extend the terms of current Council officers an additional year
- Discussed the progress of the NR 149 revision
- Discussed the future of the Program's role in providing training seminars
- Discussed development of a long-term plan for training needs and the role of the LabCert Program
- Reviewed the LabCert Program's audit, report, and closure totals for the second quarter of FY 2004 as well as results of the third quarter at the midway point
- Reviewed the LabCert Program's proposed fiscal 2005 budget.
- Voted to formally recommend approval of the LabCert FY05 budget by the Natural Resources Board
- Participated in an exercise related to the LabCert Program Review to identify which services are valued most/least.
- Learned of upcoming revisions to NR 219
- Were informed of a current project to significantly upgrade the LabCert website
- Were informed of a LabCert performance statistics posted on the DNR website
- Discussed a letter from a DNR Basin Engineer requiring additional sample preservation documentation.
- Were informed of a new "Ask the Auditor" forum on the WELA website
- Tentatively scheduled the Council's next meeting for Tuesday, May 11, 2004 at the Lodi City Hall

Agenda Items

I. Check in/Agenda Repair

- A. Council members, DNR staff and Guests were introduced. David Webb introduced JoAnne Farnsworth, the Bureau of Integrated Science Services Section Chief for Administrative Services. JoAnne and her staff are involved in bureau budgetary matters and, this being the annual LabCert budget meeting, expressed interest in attending the Council meeting.

II. Approval of Previous Meeting's Minutes

- A. The following amendments were suggested to the draft minutes from the previous meeting:
- Correct a typo on page 3, paragraph "E" ("hat" instead of "that").
- B. The draft minutes, as amended above from the Council's November 18, 2003, meeting were approved unanimously.

III. Election of Council Officers

- A. Randy Herwig offered a motion to extend each of the current officers' terms another year. After being seconded by Ms. Kuehl, the motion was unanimously approved.

IV. NR 149 Revision Update

- A. David Webb indicated that Diane is currently working with folks in Enforcement. This section of the code had not been addressed in detail by the RAC. Alfredo Sotomayor is focusing on drafting actual Code language. Diane Drinkman made a presentation of the rule revision status at the Midwest Analysts Association in late January, and indicated at that time that the rule timetable remained on schedule.
- B. Mr. Webb expressed concern that a provision of the recently legislated "Job Creation Act" could slow the rule timetable down due to the additional workload required to satisfy new rule-making requirements outlined in the legislation. The Job Creation Act imposes new requirements for anyone proposing rules. The requirements include more detailed documentation of fiscal impact, and comparison to "like" programs (e.g. at the local, state, and national levels). Webb further indicated that the legislation is so new that very few individuals completely understand all requirements. Therefore, he will be attending several internal DNR sessions that will establish what additional measures are required.
- C. Following an extended discussion between Council members and Webb, it was apparent that not enough information was available at present. Greg Pils agreed to e-mail a copy of the "Job Creation Act" legislation to Council members following this meeting.
- D. The discussion led to an ancillary discussion regarding staff assignments, workload, and the need to fill the Dinsmore/Mealy vacancy. Webb summarized this activity and other Program issues as follows:
 - [Filling the vacancy] is progressing, but there are uncertainties associated with the workforce reduction. It behooves us to wait for several things to develop over the course of the next few weeks to obtain more clarity. He is virtually certain the position will not get cut, but is equally uncertain as to how it will translate into filling the position.
 - Webb announced that effective July 1, 2004 the 1/2 LTE position, currently filled by Don Domencich, would be cut. This position covers audits of smaller wastewater and industrial facilities throughout most of the DNR's Northeast Region.
 - Webb emphasized that it's largely a different program now and the lines between Central Office and the Regions will become even more blurred.
 - With respect to questions about staff involvement at NELAC meetings, Mr. Webb indicated that NELAC is not a top priority. He has defended and justified limited staff involvement at semi-annual meetings to keep current with national trends. That being said, however, audits; Code revision; and maintaining program quality remain the top three program priorities. Until progress in these three activities is hampered, he is comfortable with the level of our involvement. Paul Junio added that travel costs to NELAC meetings is currently being covered by INELA.

V. Audit Status – Quarterly Update

- A. Greg Pils provided the council with a summary of the Laboratory Certification Program's audits' reports, and audit closures for the second quarter (and third quarter to-date) of Fiscal Year 2004. The FY 2004 tallies appear in the tables on the following page.
- B. Pils indicated that audits are down so far in the third quarter. This is most likely a function of having two auditors working on the Code revision, and having one auditor position vacancy.
- C. Pils emphasized that the annual goal for Regional audits should be viewed as a "soft" goal. He instructed council members to view this number as "the median number of audits required to stay on task". He also explained that the current goal of 106 is derived by dividing the number of Regional facilities (317) by three (3)...the desired audit cycle. In that the Regional auditors completed 106 audits in fiscal 2003, this is clear indication that that aspect of the program remains on task.
- D. In a second handout, Pils provided the Audit Priority Report for Central Office facilities as of February 10, 2004. Facilities annotated with an asterisk represent those facilities for which an audit has already been scheduled, but not yet completed.

- E. Mr. Pils further explained that some facilities (e.g. Davy, UWSP) will show a priority date that is less than three years removed from the previous audit. In both the situations described, each laboratory submitted a revised application for additional tests that required another on-site evaluation. The on-site evaluation, however, was directed solely towards the parameters associated with the application. Therefore, the audit priority date is actually based on the date of the last full-scale on-site evaluation.
- F. R.T. Krueger asked why a particular laboratory had already been scheduled for an audit given that the facility is "basically done". Pils responded that auditors are assigned a number of labs at a time. Assignments are made to ensure an equitable mix of in-state vs. out-of-state labs and large, complicated facilities vs. small limited parameter laboratories. He further explained that, frequently, auditors find it easier to fit less challenging audits into their schedule. More complicated audits require several day blocks of time.

FY 2004 Quarterly Audit Activity

	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
CENTRAL OFFICE				
Audits	11	Audits 10	Audits	Audits
Reports	13	Reports 12	Reports	Reports
Closures	5	Closures 12	Closures	Closures

REGIONAL

Audits	24	Audits 23	Audits	Audits
Reports	19	Reports 28	Reports	Reports
Closures	24	Closures 16	Closures	Closures

FY 2004 Cumulative Audit Activity

CENTRAL OFFICE

Total Year-to-Date	Annual Goals
Audits 22	44
Reports 28	44
Closures 20	44

REGIONAL

Audits 56	106
Reports 54	106
Closures 54	106

Total Labs by Responsibility

CO (Central Office)	130
NE (Northeast Region)	72
WC (West Central Region)	88
SC (South Central Region)	75
SE (Southeast Region)	82
O (Other/Reciprocity Labs)	14

- G. Mr. Krueger also asked about a laboratory that was audited in 2001, but whose audit remains open. Pils indicated that he did not have information specific to this facility, but that many out-of-state labs, with little or no Wisconsin work, do not view response to the audit as a high priority.

- H. George Bowman pointed out that, though the majority of audit reports are written within 30 days of the audit, four (4) reports took over a year to write, and at least 10 other reports took between 4 and 7 months to write. He asked why these reports took so long to write. Greg Pils and David Webb both acknowledged these anomalies and emphasized that progress was being made. Bowman counseled them to determine whether or not there is a pattern to the anomalies, and--if so--to look further into the matter.
- I. Looking at the heading "Total Labs By Responsibility", Randy Herwig asked what happened to the 31 Northern Region laboratories. Pils responded that this new list reflects the fact that Northern Region laboratories have been absorbed by Camille Johnson (western half) and John Condron (eastern half). The old "RC" code has been removed as well. John Condron absorbed these labs. The Regional designators now serve as proxies for the auditors themselves (NE = Don Domencich, WC = Camille Johnson, SC= Brenda Howald, and SE= John Condron).
- J. To close the discussion on this section Pils asked if the format of the Audit Priority Report was acceptable. Paul Junio commented that the quarterly summary works well for each meeting. The Audit Priority report is great, but better suited as a once-a-year report presented at the Council meeting before the end of the year.

VI. Proposed FY2005 LabCert Fees

- A. Greg Pils initially presented a comparison of the Program's Chapter 20 Spending Authority vs. actual Budget from 1995 to present. This graphic showed that historically there were only two years that the Program budgeted up to its maximum spending authority. All other years, the actual budget ranged from \$5K to 82K below the allotted spending authority. In each of the last 4 years, the program budget has been consistently \$45K to \$57K below spending authority.
 - B. Pils went on to present a Fact Sheet associated with the fiscal 2005 budget (which takes effect July 1, 2004). This budget represents only a 0.9% increase over the current fiscal year's budget. He emphasized that the LabCert budget, with the exception of training, represents fixed costs; there is no flexibility. Key changes to the budget include:
 - Increases in staff salary and fringes due to contracts renegotiated in May 2003 (2001-2003) and again in December 2003 (2003-2005).
 - Elimination of one LTE (1/2) position
 - Projecting approximately \$13,000 less in out-of-state travel reimbursement costs.
 - \$5,000 reduction in internal information technology charges
 - C. Addressing an earlier question from R.T. Krueger, Pils explained that this budget does reflect full salary and fringes cost of the vacant position. The budget does not take effect until July 1, 2004, leaving the Program ample opportunity to fill the vacancy. Even in the event that the position is not filled effective July 1, there is precedent for how fees collected in advance are dealt with if unspent. Back in 2000, an additional \$20K (estimated) was budgeted (and collected through fees) for computer upgrades associated with the Program's plan to apply as a NELAC Accrediting Authority. The allotted monies were not spent, and appeared as a credit in the next year's spending authority. We applied the \$20K collected in FY01 for the NELAC database as a credit toward the program's FY02 budget or spending level, not the spending authority which is established by law and can't be amended (save for legislative action). The net result was that we collected \$20K less in fees in FY02 (thereby keeping the cost per RVU lower), and used the \$20K collected the previous year to make up the shortfall.
 - D. Jim Kinscher asked why training was no longer even a line item (although monies were allocated last year). Dave Webb responded that the Program will be backing down on training...possibly even backing off due to the fact that the Training Coordinator is now the Program Chemist. Webb chooses not to sacrifice the services provided through the Program Chemist, so, in the interim, we will stand down for the next year or so. We will have little associated costs, and the budget reflects that.
- Jim Kinscher asked if the NR 149 revision wasn't going to require significant outreach, and how would that be

dealt with. Randy Herwig inquired as to whether the problem was a manpower or a budget limitation. He added that he has operators call him regularly and indicate that they will set up a training session (through WWOA) if Rick Mealy and George Bowman can provide the training.

Dave Webb explained that as a result of the workforce reduction effort, the Training Coordinator became the Program Chemist, which is a full-time effort. The Program needs a high quality Program Chemist more than it needs formal training. He remains sensitive to the need for training, but not at the cost of Program priorities (audits, reports, applications, etc.). The Program is simply unable to provide the same level of external energy related to training for the foreseeable future (approx. one year). In the interim, efforts will be focused on keeping up with the audit cycle and revising NR 149. Training will be limited to honoring existing commitments, including a couple of upcoming *E. coli* / chlorination sessions and sessions submitted for the annual WWOA conference. We will maintain existing Web-page training items and continue to consult with WWOA, WRWA and WELA to maintain a voice in training issues. We will stay this course until [I'm] certain that [I] can apply someone's time without detracting from Program priorities.

George Bowman added that the SLH was interested in setting up an additional ICP training session as well. He added that neither the ICP session nor any of the other commitments would work well without LabCert involvement.

- E. To help address the training issue, Dave Webb offered the option of allocating a certain dollar amount to the LabCert budget and link this budget item to a training relationship with the State Lab of Hygiene, or some other contractor(s). As an example, using this year's proposed budget, and allocating \$20,000 to training, would raise the \$/RVU figure from \$54.00 to \$56.00. This is a way to stop "nibbling around the edges" and commit to training.
- F. R.T. Krueger stated that he felt it important to budget some monies for training in fiscal 2005. He expressed concern that over the course of fiscal 2005, staffing situation may resolve itself, but without budgeting for it, training could not occur.

Dave Webb responded by emphasizing that money was not the issue at this time...that it was strictly a staffing issue. If something were to change, there is a degree of flexibility within the budget, the Natural Resources Board's concern is mainly that we stay below our spending authority.

Randy Herwig raised the issue of the impending [Watershed Management Program] switch from requiring fecal coliform analysis to requiring *E. coli* testing. Again, without any training opportunities, it will be difficult to pass lab audits. Webb agreed that there is no question that training helps our compliance rates, but added that this is a fact that is difficult to quantify. He agreed that there is a need for *E. coli* training, and again stated that these things make it a very hard decision to back off of training. In this case, however, we still have to wait for Watershed Management to finalize rule, for the changes to be in WPDES permits, and finally, LabCert rules have to be altered to allow us to certify for this parameter.

- G. George Bowman suggested development of a 3-5 year training plan. Greg Pils responded that a clear vision and detailed plan are precisely what are required to "sell" the Natural Resources Board on any particular budget item (and, in particular, one of the \$20K magnitude that Dave offered).
- H. Paul Harris expressed concern that WWOA-based training typically excludes the commercial lab sector. Similarly, Rural Water really limits the advertised population. If LabCert money is involved, then all labs must be equally able to attend. Randy Herwig suggested merging the available mailing lists. Greg Pils added that this would provide the Council an opportunity to show their constituencies what the Council is all about. Go to your constituencies, find out what they want and then come back and present it to us. Marcia Kuehl summarized the discussion by suggesting that a training plan covering the next year be drawn up for the next LabCert Council meeting.

Dave Webb added that the initial discussion should identify a superstructure: WHO presents the training? A team? He added that a model that seems to work well already exists. The model is the WEA (Wisconsin Educators Association).

- I. Greg Pils steered the discussion back to the budget itself. He reminded the Council that fees are proportionate to the number of labs in the program, but also to the number of RVUs. In this budget, even though we dropped from 465 to 455 laboratories, we actually increased the number of RVUs, which helped mitigate the extent of the fee increase. This rationale for this anomaly was explained by

suggesting the core laboratories were actively expanding their scope of accreditation to be more flexible in the market. Four (4) of the ten (10) labs that dropped from the Program were Reciprocity labs. Pils pointed out that the loss of reciprocity labs would not affect the audit workload (i.e. there was no decrease in audit workload).

Another anomaly observed in this budget was a significant decrease in projected money the program will collect from out-of-state audit reimbursements. This amount is subtracted from the total budget amount and then the difference is divided by the number of RVUs. The Program projected \$22,300 in out-of-state audit rexpenses for FY2004. The amount projected for FY2005 is only \$9300. Despite the fact that the total budgeted amount was very close this year (\$551K) relative to last year (\$546K), the reduction in out-of-state travel reimbursement dollars required more money collected through fees. Fortunately this was largely offset by a significant increase in RVUs.

	Total Budget \$	- Travel reimbursement	= Fees to Collect	÷ Total RVUs	= \$/RVU
Last year (2004)	\$546,000	\$22,300	\$523,700	9,975	\$52.50
THIS Year (2005)	\$551,000	\$9300	\$541,700	10,031	\$54.00

- J. Pils summarized that the increase to \$54.00 per RVU in fiscal 2005 would translate to a fee increase of \$21 for a typical wastewater laboratory registered for categories 1-4. A fee increase of \$88.50 would be observed for an "average" commercial laboratory.

For comparison purposes, Pils offered the following alternative scenarios:

- At the proposed \$54.00/RVU, a Program deficit of \$206 would be realized
- If the existing \$52.50/RVU were retained, a Program deficit of \$17,000 would be realized
- If the Program were to collect fees up to the full spending authority, the cost per RVU would be \$59.00

- K. Pils concluded the presentation by asking for a recommendation from the Council to approve the FY 2005 budget as presented. Paul Junio presented the motion, which was seconded by Randy Herwig. The motion carried unanimously.

VII. LabCert Program Review Project

- A. Greg Pils provided an overview of his project to complete a Review of the Laboratory Certification Program, which was initially discussed at the previous LabCert Council meeting. Pils indicated that he had re-thought the idea of a survey, discussed at the last meeting, due to a perceived inability to create an appropriate survey within the time constraints. Aside from the difficulty in constructing a single survey representative of the interests of all labs types, being able to manage a survey of 455 labs was also a factor. Pils expressed his belief that the LabCert stakeholders' interests were best served by the LabCert Council members and guest attendees.

Pils indicated that the questions that needed to be answered include:

- What services do you [the stakeholders] require [from the LabCert Program]?
- What [services] do you value the most?
- Do the services we provide meet your needs?
- Is there something that we don't provide [that we should provide]?

- B. Pils emphasized the importance of keeping the information at a program level. For example, if talking about performance measures, there is a need to avoid non-numerical or overly quantitative measures. Providing a specific example, he indicated that a performance measure of "Perform 'X' audits" would be too detailed. Instead, the concept should be framed as "Perform sufficient number of audits to maintain a reasonable backlog". In this form, the measure would be more valuable at the Program level.
- C. Before initiating a brainstorming session with the Council members, Pils summarized a similar session held with the LabCert staff in which staff members were asked to identify three (3) functions that LabCert provides that are

most valuable to the program. The result was a wide array of responses ranging from very detailed functions to general concepts. Overall the responses could be grouped into two main themes: (1) Audits and (2) Technical Assistance.

D. For this session, Pils asked Council members and guest attendees to list

- (A) Program Serviced Valued the Most, and
- (B) Program Serviced Valued the Least

Responses are summarized below (the order is meaningless):

MOST	LEAST
Regulatory and Technical Assistance (5)	Fees
Audits (5) [Verify work done correctly, timely, =credibility]	LabNotes [no real value]
Contact with staff	"Thou Shalt"s vs. Compliance Guidance
Interaction with other [DNR] Programs (2)	Training [invaluable, but lower priority relative to staffing]
Labnotes (2) [though some articles a bit long]	PT Samples/Program (4)
PT Provider list	Time spent outside of Program [NELAC, Out-of-state training]
Recommendations in Audit Report	Lack of Black&White Audit Process (3)
Training (2)	PT Provider Review Process
Outreach [Web; toolbox]	Guidance vs. Specific Directives
Analytical Methods Selection [LC staff view]	Certificate (2) [nuts&bolts; should have meaning]
Certificate [doors closed w/o it]	Regional Auditor Approach [uniform audits/accountability]
Accessibility of staff (2)	"Program is a license to do work" philosophy
Responsiveness	Re-application process [must be easier; via Web?]
Customer Service	Entire application process [need electronic]
Website [although you have to dig a little]	Lack of Inter-(DNR)Program Communication

Pils concluded the exercise by suggesting that some of the general "Most Important" themes echoed sentiments of the LabCert staff, including Technical Assistance, Audits and Interaction with Programs. He noted that some rather insightful comments received included those about the importance of staff responsiveness and accessibility. With respect to "least" important services, an interesting response was the newsletter, Labnotes. Again, some of the comments were insightful and constructive (e.g.; LabNotes is good, but make it more focused).

Pils indicated that he might ask the Council to meet outside of a regularly scheduled Council meeting. He added that if groups such as WELA or WWOA plan to meet and would like him to make a presentation there or be available to discuss the project to contact him directly.

VIII. Other Program and DNR Business

- A. Dave Webb indicated that he is on the agenda at the February Natural Resources Board meeting to request authorization to conduct public hearings regarding the revision of NR 219. Ron Arneson is working on the Code revision and green sheet package, which will be coming out in late February. Webb emphasized that this is not the "master method" Code. We are merely updating NR 219 to reflect recent similar changes adopted by the EPA.
- B. Noting a lot of discussion about our website during today's discussions--most notably the difficulty in finding items of interest---Webb announced that Rick Mealy is currently working on a significant rewrite of the website code, particular with respect to organization of the site. Webb wanted to also note that despite the interest in more electronic forms, there is difficulty in making things uniformly electronic due to accessibility of all customers.
- C. Webb also announced that out on the web (via the DNR Homepage) are statistics regarding the LabCert Program's performance. These new pages offer graphical answers to the questions, "How many days from the application date did it take to grant certification?" and "How many labs have not been audited in 4 or more years?". The information is available at: <http://www.dnr.state.wi.us/org/caer/cea/permits/lab.htm>.
- D. Greg Pils announced that he would be holding a public meeting at 10:00 on Monday February 16, 2004 (at the State Patrol HQ in Deforest) regarding the LabCert Fees. He indicated that historically no one shows up.

Paul Harris asked if David Webb had any comments about the letter that one of the DNR Basin Engineers, out of the West Central Region, has sent to facilities. Greg Pils indicated that though we have not seen any letter, he was somewhat informed about the issue. As he [Pils] understand it, the engineer is asking for sample temperatures upon receipt, even if they are "received on ice". Pils and Webb agreed that the matter would be pursued internally and any conclusions presented to the Council.

IX. Council Member Items

- A. Katie Edgington raised the issue of a recent letter from Don Swailes (Chief, Drinking Water Quality section) regarding the mandatory reporting of drinking water results directly to the DNR effective January 2005. Ms. Edgington indicated that she has no argument with the requirement for electronic reporting, but specifically desires an opportunity to review contract lab results [of her municipal samples] prior to their transmission to the DNR.

Paul Junio added that he is generally opposed to laboratory-related requirements that are not contained under NR 149. Paul Harris stated that current NR 809 rules require labs to report certain results to the DNR "immediately". He added that he intends to invite Gail North (DNR, Drinking Water- Information Technology) to speak on the new requirements at the May 6, 2004 WELA meeting.

- B. Paul Junio announced that WELA is working on a new electronic forum as part of their website [www.wislabs.org]. WELA is working on an "Ask the Auditor" portion of their on-line forum that would trigger an e-mail to the LabCert program e-mail account. Conceptually, an individual could ask a question of the auditors and the auditors would be granted access to respond to the questions directly on the WELA website. Junio feels this will be valuable in addressing inconsistencies and to "level the playing field".
- C. Paul Junio inquired about the status of letters regarding certification for PAHs by GC/MS (SIM) which was discussed at the previous LabCert Council meeting. Greg Pils responded that they should be going out within the next week or so.

X. Future Meeting Dates

- A. The next Council meeting was tentatively scheduled for Tuesday, May 11, 2004 at the Lodi City Hall.